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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,186	09/10/2003	Kenneth W. Gatten	1-730	7490

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EXAMINER

SANTOS, ROBERT G

ART UNIT PAPER NUMBER

3673

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,186

Applicant(s)

GATTEN, KENNETH W.

Examiner

Robert G. Santos

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 15 is objected to because of the following informalities: In line 3, the term "each" should be changed to the phrase --said at least one--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 7-10, 13-16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sarkozi '295 (note especially Figures 1-6; column 2, lines 12-25, 44-46, & 58-68; column 3, lines 1-4 & 64-68; and column 4, lines 1-9).

Claims 1, 2, 4, 9, 11, 15, 16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Shang '455 (note especially Figures 1 & 2; column 3, lines 46-67; column 4, lines 1-65).

Claims 1, 2, 7, 12-15 and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lin '714 (note especially Figures 1-3E, 6-12, 15, 17-18; column 1, lines 59-68; column 2; and column 3, lines 1-18).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin '714. Lin '714 does not specifically disclose a condition wherein each pad (1) has a generally rectangular shape of "about 12 inches by 18 inches and a thickness of about 1 inch." It would have been an obvious matter of design choice to provide each pad of the mattress of Lin '714 with a generally rectangular shape of "about 12 inches by 18 inches and a thickness of about 1 inch", since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin '714 in view of Augustine et al. '480. Lin '714 does not specifically disclose a condition wherein the cooling medium is a water-alcohol mixture having a freezing point lower than zero degrees Celsius. Augustine et al. '480 provide the basic teaching of a cooling mattress utilizing different fluids as cooling mediums, the fluids including "glycol-water [and] alcohol-water mixtures" (note especially column 5, lines 45-50 of Augustine et al. '480). The skilled artisan would have found it obvious at the time the invention was made to replace the cooling medium (water) of the

mattress of Lin '714 with a cooling medium which is a water-alcohol mixture having a freezing point lower than zero degrees Celsius since such a modification would have been generally recognized as a substitution of art-recognized equivalents as taught by Augustine et al. '480.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Augustine et al. '427, Stanley et al. '795, Augustine et al. '432, Stanley et al. '948, Augustine et al. '002, Stanley et al. '051, Smith '823, DeGroot '529, Shaw, Jr. '887, McClanahan '411, Bexton '730, Bake, Jr. '050, and Friant '581.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

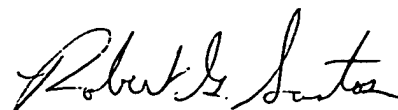
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "Robert G. Santos". The signature is fluid and cursive, with the first name "Robert" and last name "Santos" clearly distinguishable.

Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.

August 3, 2004